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09/960,351	09/24/2001	Anders Lindberg	3372-0108P	6239
2292	7590	09/13/2007	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			SHANG, ANNAN Q	
PO BOX 747			ART UNIT	PAPER NUMBER
FALLS CHURCH, VA 22040-0747			2623	
NOTIFICATION DATE		DELIVERY MODE		
09/13/2007		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)
	09/960,351 Examiner Annan Q. Shang	LINDBERG, ANDERS Art Unit 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 August 2007.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-37 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-37 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/22/07 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Jensen et al (5,671,219)**.

As to claim 1, **Jensen** a method in which user stations (102) communicate with one or more base stations (104) to place and receive calls and data, in a secure voice or data link and ability to handoff calls between stations while such calls are in progress and further discloses a method of test receiving alternative reception frequencies in a receiver receiving a continuous flow of information at a first reception frequency, the continuous flow of information including a user terminating information, the receiver

including an information transfer routine that extracts a flow of specific user terminating information from the received continuous flow of information, the method comprising:

The claimed "an antenna and a demodulator..." are inherent to Receiver of Mobile Station 'MS'102 (figs.1-4 and col.3, lines 31-42, col.6, lines 11-55);

Predicting (MS-102) an interruption in the form of natural break in the flow of specific user terminating information, based on an indication of the end of the specific user termination information (col.12, line 39-col.13, line 22, line 67-col.14, line 6); base on the behavior of the specific user terminating information, evaluating the interruption to determine a probability whether it will be of an adequate length of time, and generating a positive response if it is evaluated that the interruption will be of an adequate length of time (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43);

Changing reception frequency of the receiver from the first reception frequency to an alternative reception frequency if the evaluation has generated a positive response; Test receiving the alternative reception frequency; enabling reception and extraction of the flow of specific user terminating information (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43), note that due to expected interruption of the flow of information to MS-102 during communication with a base station, MS-102 stores in advance available frequencies of all base stations within the vicinity, and when such interruption occurs during communication, such as, faulty communication, in situation where sudden shadowing occurs, such as when connection with current base station is lost due to severe signal blockage near the limit of cell range such as can occur when

turning corner quickly in a dense urban high rise area, low signal strength, etc., MS-102 checks its previously created 'priority list' of available base stations in the vicinity and attempts to establish contact with new base station (handoff or handover) or previous base station during this period.

Jensen is silent where the flow of information of a unidirectional digital broadcasting transmission.

However, Jensen suggest the invention can be implemented on cable TV network and variety of different networks, including broadcast networks, depending upon the desired application (col.4, line 43-col.5, line 6, col.8, lines 46-61 and col.14, lines 30-52).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Jensen to include other broadcast networks, such as DVB, DAB, etc., to provide additional service(s) to users

Claims 2-3 are met as previously discussed with respect to claim 1.

As to claims 4-5, Jensen further discloses where the interruption comprises the steps of: determining a probability that the interruption will be of an adequate length of time, determining if the probability is larger than a predetermined threshold value and if is determined that the probability is larger than the predetermined threshold value then it is evaluated that the interruption will be of an adequate length of time, where an adequate length of time of an interruption is at least equal to a total time of one test reception and one frequency (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43), note that the probability of having a loss of signal was anticipated

thereby leading to the creation of a priority list, for providing a solution in the event of a signal loss. Furthermore, the probability of having a signal loss is based on a predetermined threshold of amount of signal within a period.

Claims 6-9 are met as previously discussed with respect to claim 1.

Claim 10 is met as previously discussed with respect to claim 1.

Claim 11 is met as previously discussed with respect to claim 1.

Claim 12 is met as previously discussed with respect to claim 1.

As to claims 13-14, Jensen further discloses where enabling reception and extraction of the flow of specific user terminating information (SUTI) is performed after a predetermined time after the information transfer routine has requested more information (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43).

As to claims 15-16, Jensen further discloses where enabling reception and extraction of the flow of SUTI is performed after the information transfer routine is activated and after a predetermined period of time (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43).

As to claims 17-23, Jensen further discloses determining a list of alternative frequencies, the claimed "changing reception frequency...." "test receiving the further alternative frequency (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43), evaluating the test reception or test receptions based on one or more parameters of the test received alternative frequency or frequencies, where enabling reception and extraction of the flow of USTI comprises changing the reception

frequency to the first reception frequency and initiating a handover to an alternative frequency (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43).

As to claims 24-29, the claimed limitations are met as previously discussed with respect to claim 1.

As to claim 30, the claimed "a receiver being arranged to receiving a continuous flow of information..." is composed of the same structural elements that were discussed in the rejection of claim 1.

Claims 31-32 are met as previously discussed with respect to claims 2-3.

As to claims 33, Jensen further discloses continuously evaluating and determining the best frequency within a predetermined time during the handoff (col.14, line 54-col.15, line 38, line 47-col.16, line 18 and col.18, line 1-43).

Claims 34-37 are met as previously discussed with respect to claims 17-23.

Response to Arguments

4. Applicant's arguments with respect to claims 1-37 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's arguments (see page 11+ of Applicant's Remarks), Examiner notes applicant's arguments, however Jensen suggest the invention can be implemented on cable TV network and variety of different networks, depending upon the desired application (col.4, line 43-col.5, line 6, col.8, lines 46-61 and col.14, lines 30-52). Hence one of ordinary skill in the art would have been motivated to modify the system of Jensen to include other broadcast networks, such as DVB, DAB, etc., to

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provide additional service(s) to users. Furthermore the probability of having a loss of signal was anticipated thereby leading to the creation of a priority list, for providing a solution in the event of a signal loss. In addition, the probability of having a signal loss is based on a predetermined threshold of amount of signal within a period. The amendment to all the independent claims necessitated the new ground(s) of rejection discussed above. **This Office Action is non-Final.**

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Anderson et al (6,532,365) disclose PCS pocket phone/microcell communication over-air protocol.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA)** or **571-272-1000**.



Annan Q. Shang